

103D CONGRESS
1ST SESSION

H. R. 3264

To amend titles XVI and XIX of the Social Security Act to improve work incentives for people with disabilities.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 12, 1993

Mr. STARK (for himself, Mr. RAMSTAD, and Mr. BEILENSON) introduced the following bill; which was referred jointly to the Committees on Ways and Means and Energy and Commerce

A BILL

To amend titles XVI and XIX of the Social Security Act to improve work incentives for people with disabilities.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Work Incentives
5 Amendments of 1993”.

6 **SEC. 2. TABLE OF CONTENTS.**

7 The table of contents is as follows:

Sec. 1. Short title.

Sec. 2. Table of contents.

TITLE I—ACCESS TO SSI WORK INCENTIVES

Sec. 101. Access to work incentives under SSI for SSDI-only recipients who lose eligibility for SSDI benefits because of working.

TITLE II—WORK INCENTIVES WAIVER AUTHORITY

Sec. 201. Eligibility of certain individuals with disabilities for coverage under Medicaid home and community-based care waivers.

Sec. 202. Waiver authority.

TITLE III—AMENDMENTS TO WORK INCENTIVES PROVISIONS

Sec. 301. Disregard deemed income of ineligible spouse when determining continued Medicaid eligibility under section 1619(b).

Sec. 302. Continuation of Medicaid for the aged who lose SSI due to excess earnings.

Sec. 303. Self-support plans not disapproved within 30 days to be deemed approved.

Sec. 304. Regulations regarding completion of self-support plans.

Sec. 305. Exclusion of income and resources under self-support plans in determining Medicaid eligibility in “section 209(b)” States.

Sec. 306. Expansion of self-support plans to include housing goals.

Sec. 307. Self-support plans for the aged.

Sec. 308. Additional State supplementation requirement.

Sec. 309. Treatment of unemployment compensation, worker’s compensation, and sick pay as earned income for SSI purposes.

Sec. 310. Treatment of certain grant, scholarship, or fellowship income as earned income for SSI purposes.

Sec. 311. SSI eligibility for students temporarily abroad.

TITLE IV—EFFECTIVE DATE

Sec. 401. Effective date.

1 **TITLE I—ACCESS TO SSI WORK** 2 **INCENTIVES**

3 **SEC. 101. ACCESS TO WORK INCENTIVES UNDER SSI FOR** 4 **SSDI-ONLY RECIPIENTS WHO LOSE ELIGI-** 5 **BILITY FOR SSDI BENEFITS BECAUSE OF** 6 **WORKING.**

7 (a) IN GENERAL.—Section 1619 of the Social Secu-
8 rity Act (42 U.S.C. 1382h) is amended—

9 (1) in subsection (a), by adding at the end the
10 following:

11 “(3) Notwithstanding paragraph (1) of this sub-
12 section, a qualified individual shall not be required to have

1 been eligible to receive benefits under section 1611 (or a
2 State supplementary payment) for a month in order to
3 qualify for a monthly benefit under this subsection.”;

4 (2) in subsection (b)—

5 (A) in paragraph (1), by inserting “(or, in
6 the case of a qualified individual, because of his
7 or her resources)”;

8 (B) by adding at the end the following:

9 “(4)(A) The requirement in paragraph (1) of this
10 subsection, that an individual must have been eligible to
11 receive a benefit under section 1611 or any federally ad-
12 ministered State supplementary payment for a month,
13 shall not apply to any qualified individual.

14 “(B) In applying paragraph (1) of this subsection to
15 a qualified individual, the Secretary shall, for 12-month
16 period beginning 3 months after the end of the individual’s
17 period of trial work (as defined in section 222(c)), dis-
18 regard that portion of the resources of the individual, as
19 of the beginning of such 12-month period, that exceeds
20 the amount which would otherwise result in the ineligibil-
21 ity of the individual for benefits under this title.”; and

22 (3) by adding at the end the following:

23 “(e) Benefits paid under subsection (d)(1)(B)(ii),
24 (d)(6)(A)(ii), (d)(6)(B), (e)(1)(B)(ii), or (f)(1)(B)(ii) of
25 section 202 or under subsection (a)(1) of section 223 dur-

1 ing the last 33 months of the 36-month period referred
2 to in section 223(e) in the case of a qualified individual
3 shall not be considered in determining whether such indi-
4 vidual meets the requirements of subsection (b)(1)(B).

5 “(f) As used in this section, the term ‘qualified indi-
6 vidual’ means an individual—

7 “(1) who has been entitled to benefits under
8 subsection (d), (e), or (f) of section 202 based on
9 disability, or disability insurance benefits under sec-
10 tion 223;

11 “(2) who is notified by the Secretary that he or
12 she has engaged in substantial gainful activity; and

13 “(3) who files an application for benefits under
14 this title before the end of the 3-month period begin-
15 ning with the date of the notification referred to in
16 paragraph (2).”.

17 (b) EFFECTIVE DATE.—The amendments made by
18 subsection (a) shall take effect on the date of the enact-
19 ment of this Act, and shall apply with respect to periods
20 of trial work (as defined in 222(c) of the Social Security
21 Act) ending on or after the date that is 3 months before
22 such date of enactment.

TITLE II—WORK INCENTIVES WAIVER AUTHORITY

SEC. 201. ELIGIBILITY OF CERTAIN INDIVIDUALS WITH DIS- ABILITIES FOR COVERAGE UNDER MEDICAID HOME AND COMMUNITY-BASED CARE WAIV- ERS.

(a) IN GENERAL.—Section 1915(c) of the Social Security Act (42 U.S.C. 1396n(c)) is amended by adding at the end the following new paragraph:

“(11)(A) At the request of a State, the State plan may provide services under a waiver under this subsection to any individual described as follows (but only if such individual would otherwise be entitled to services under the waiver):

“(i) An individual who receives benefits under subsection (d), (e), or (f) of section 202 based on disability, or disability insurance benefits under section 223.

“(ii) An individual who would be entitled to benefits under subsection (d), (e), or (f) of section 202 based on disability, disability insurance benefits under section 223, or benefits under title XVI on the basis of a disability, if the individual’s earnings did not exceed the applicable criteria used by the Secretary to determine whether an individual has dem-

1 onstrated an ability to engage in substantial gainful
2 activity.

3 “(B) In the case of an individual described in sub-
4 paragraph (A)(ii), a waiver under this subsection may also
5 include a waiver of the provisions of section 1903(f)(4)(C)
6 requiring the Secretary to disregard subsection (b) of sec-
7 tion 1612 in determining whether the individual’s income
8 exceeds 300 percent of the supplemental security income
9 benefit rate established by section 1611(b)(1).”.

10 (b) EFFECTIVE DATE.—The amendment made by
11 subsection (a) shall apply to waivers under section 1915(c)
12 of the Social Security Act for quarters beginning 90 or
13 more days after the date of the enactment of this Act.

14 **SEC. 202. WAIVER AUTHORITY.**

15 Part A of title XVI of the Social Security Act (42
16 U.S.C. 1381–1382j)) is amended by adding at the end the
17 following:

18 **“SEC. 1622. WORK INCENTIVES.**

19 “(a) REQUEST.—For the purpose of enabling individ-
20 uals who are aged, blind, or disabled individuals to work,
21 any State may request the Secretary to apply subsection
22 (c) with respect to the residents of the State.

23 “(b) PROVISION OF WORK INCENTIVES.—The Sec-
24 retary shall apply subsection (c) with respect to the resi-
25 dents of a State that has submitted a request under sub-

1 section (a) if the Secretary finds that doing so would be
2 cost-effective and efficient and not inconsistent with the
3 purposes of this title, and would encourage work by indi-
4 viduals with severe disabilities.

5 “(c) NATURE OF WORK INCENTIVES.—In determin-
6 ing whether any resident of the State is eligible for bene-
7 fits under this title and, if so, the amount of such bene-
8 fits—

9 “(1) section 1612(b)(4) shall be applied—

10 “(A) by substituting ‘not more than
11 \$2,400 (as agreed upon by the Secretary and
12 the State in which the individual resides)’ for
13 ‘\$780’ each place such term appears; and

14 “(B) by substituting ‘one-third’ for ‘one-
15 half’ each place such term appears; and

16 “(2) earned income shall be excluded under sec-
17 tion 1612(b) only pursuant to paragraphs (1),
18 (2)(A), and (4) of such section.”.

1 **TITLE III—AMENDMENTS TO**
2 **WORK INCENTIVES PROVISIONS**

3 **SEC. 301. DISREGARD DEEMED INCOME OF INELIGIBLE**
4 **SPOUSE WHEN DETERMINING CONTINUED**
5 **MEDICAID ELIGIBILITY UNDER SECTION**
6 **1619(b).**

7 Section 1614(f)(1) of the Social Security Act (42
8 U.S.C. 1382c(f)(1)) is amended by inserting “(other than
9 under section 1619(b))” after “benefits”.

10 **SEC. 302. CONTINUATION OF MEDICAID FOR THE AGED**
11 **WHO LOSE SSI DUE TO EXCESS EARNINGS.**

12 Section 1619 of the Social Security Act (42 U.S.C.
13 1382h) is amended by adding at the end the following:

14 “(e) For purposes of title XIX, any individual who
15 was determined to be an eligible individual (or eligible
16 spouse) by reason of age and was eligible to receive bene-
17 fits under section 1611 (or a federally administered State
18 supplementary payment) for a month, and who becomes
19 ineligible to receive such benefits for a subsequent month
20 solely due to excess income shall, nevertheless, be consid-
21 ered to be receiving supplemental security income benefits
22 for so long as—

23 “(1) the individual continues to be otherwise el-
24 igible for benefits under this title;

1 “(2) the income of the individual would not, ex-
2 cept for his earnings, be equal to or in excess of the
3 amount which would cause the individual to be ineli-
4 gible for payments under section 1611(b) (if the in-
5 dividual were otherwise eligible for such payments);
6 and

7 “(3) the earnings of the individual are as de-
8 scribed in subsection (b)(1)(D), and determined in
9 accordance with subsection (b)(2).”.

10 **SEC. 303. SELF-SUPPORT PLANS NOT DISAPPROVED WITH-**
11 **IN 30 DAYS TO BE DEEMED APPROVED.**

12 (a) AMENDMENTS TO INCOME EXCLUSION RULES.—
13 Section 1612(b)(4) of the Social Security Act (42 U.S.C.
14 1382a(b)(4)(A)) is amended in each of subparagraphs (A)
15 and (B) by inserting “and, for purposes of this clause,
16 a plan for self-support which is not disapproved by the
17 Secretary within 30 days after the date of submission shall
18 be deemed to be approved by the Secretary until subse-
19 quently disapproved by the Secretary,” after “plan,”.

20 (b) AMENDMENT TO RESOURCE EXCLUSION
21 RULE.—Section 1613(a)(4) of such Act (42 U.S.C.
22 1382b(a)(4)) is amended by inserting “and, for purposes
23 of this paragraph, a plan for self-support which is not dis-
24 approved by the Secretary within 30 days after the date
25 of submission shall be deemed to be approved by the Sec-

1 retary until 6 months after subsequently disapproved by
2 the Secretary,” after “such plan”.

3 **SEC. 304. REGULATIONS REGARDING COMPLETION OF**
4 **SELF-SUPPORT PLANS.**

5 Section 1633 of the Social Security Act (42 U.S.C.
6 1383b) is amended by adding at the end the following:

7 “(d) The Secretary shall establish a time limit by
8 which activities under a plan for achieving self-support
9 must be completed, using criteria that take into account
10 the difficulty of achieving self-support based on the needs
11 of the individual and the goals of the plan.”.

12 **SEC. 305. EXCLUSION OF INCOME AND RESOURCES UNDER**
13 **SELF-SUPPORT PLANS IN DETERMINING**
14 **MEDICAID ELIGIBILITY IN “SECTION 209(b)”**
15 **STATES.**

16 (a) IN GENERAL.—

17 (1) DETERMINATION OF INCOME.—The first
18 sentence of section 1902(f) of the Social Security
19 Act (42 U.S.C. 1396a(f)) is amended—

20 (A) by striking “and incurred expenses”
21 and inserting “incurred expenses”; and

22 (B) by striking “thereof” and inserting
23 the following: “thereof, and any income of an
24 individual with a plan for achieving self-support

1 approved by the Secretary under section
2 1612(b)(4))”.

3 (2) DETERMINATION OF RESOURCES.—The
4 first sentence of such section is amended by striking
5 “is not” and inserting the following: “and the re-
6 sources of any such individual (excluding any re-
7 sources excluded under a plan for achieving self-sup-
8 port approved by the Secretary under section
9 1613(a)(4)) are not”.

10 (b) EFFECTIVE DATE.—The amendments made by
11 subsection (a) shall apply to quarters beginning on or
12 after the expiration of the 90-day period that begins on
13 the date of the enactment of this Act.

14 **SEC. 306. EXPANSION OF SELF-SUPPORT PLANS TO IN-**
15 **CLUDE HOUSING GOALS.**

16 (a) INCOME DISREGARD RULES.—Section
17 1612(b)(4) of the Social Security Act (42 U.S.C.
18 1382a(b)(4)) is amended in each of subparagraphs (A)(iii)
19 and (B)(iv), by inserting “, containing a career or housing
20 goal, that has been” before “approved”.

21 (b) RESOURCE DISREGARD RULES.—Section
22 1613(a)(4) of such Act (42 U.S.C. 1382b(a)(4)) is amend-
23 ed by inserting “, containing a career or housing goal, that
24 has been” before “approved”.

1 **SEC. 307. SELF-SUPPORT PLANS FOR THE AGED.**

2 (a) INCOME EXCLUSION.—Section 1612(b)(4) of the
3 Social Security Act (42 U.S.C. 1382a(b)(4) is amended—

4 (1) in subparagraph (A), by striking the comma
5 at the end and inserting “; or”;

6 (2) in subparagraph (B)—

7 (A) by striking “(and has not” and all that
8 follows through “age 65),” and inserting “, or
9 has attained age 65”;

10 (B) in clause (ii), by inserting “in the case
11 of such a disabled individual (or spouse),” after
12 “(ii)”;

13 (C) in clause (iv), by striking “, or” and
14 inserting a semicolon; and

15 (3) by striking subparagraph (C).

16 (b) RESOURCE EXCLUSION.—Section 1613(a)(4) of
17 such Act (42 U.S.C. 1382b(a)(4)) is amended by striking
18 “who is blind or disabled and”.

19 **SEC. 308. ADDITIONAL STATE SUPPLEMENTATION RE-**
20 **QUIREMENT.**

21 Section 1616 of the Social Security Act (42 U.S.C.
22 1382e) is amended—

23 (1) in subsection (b)(1), by inserting “(or, by
24 reason of section 1619, are considered to be)” before
25 “receiving”;

26 (2) in subsection (c), by striking paragraph (3).

1 **SEC. 309. TREATMENT OF UNEMPLOYMENT COMPENSA-**
2 **TION, WORKER'S COMPENSATION, AND SICK**
3 **PAY AS EARNED INCOME FOR SSI PURPOSES.**

4 Section 1612(a)(1) of the Social Security Act (42
5 U.S.C. 1382a(a)(1)) is amended—

6 (1) by striking “and” at the end of subpara-
7 graph (D); and

8 (2) by adding at the end the following:

9 “(F) unemployment compensation benefits
10 and worker's compensation benefits paid under
11 any Federal or State law, and benefits paid to
12 an individual as compensation for sick leave not
13 taken by the individual; and”.

14 **SEC. 310. TREATMENT OF CERTAIN GRANT, SCHOLARSHIP,**
15 **OR FELLOWSHIP INCOME AS EARNED IN-**
16 **COME FOR SSI PURPOSES.**

17 Section 1612(a)(1) of the Social Security Act (42
18 U.S.C. 1382a(a)(1)), as amended by section 309 of this
19 Act, is amended—

20 (1) by striking “and” at the end of subpara-
21 graph (E); and

22 (2) by adding at the end the following:

23 “(G) any grant, scholarship, or fellowship
24 described in section 1612(b)(7) to the extent
25 not excluded from income pursuant to such sec-
26 tion.”.

1 **SEC. 311. SSI ELIGIBILITY FOR STUDENTS TEMPORARILY**
2 **ABROAD.**

3 Section 1611(f) of the Social Security Act (42 U.S.C.
4 1382(f)) is amended by adding at the end the following:
5 “The 1st sentence of this subsection shall not apply to
6 any individual who demonstrates to the satisfaction of the
7 Secretary that the absence of the individual from the
8 United States will be temporary and for the purpose of
9 conducting studies as part of an educational program re-
10 lated to an educational institution in the United States.”.

11 **TITLE IV—EFFECTIVE DATE**

12 **SEC. 401. EFFECTIVE DATE.**

13 Except as otherwise provided in this Act, the amend-
14 ments made by this Act shall take effect on the 1st day
15 of the 1st calendar month that begins 90 or more days
16 after the date of the enactment of this Act.

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